

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION**

ENRIQUETA DIAZ, §
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v. § Case No. 2:23-cv-00060-AM
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§
RAMSEY ENGLISH CANTU, in his individual §
capacity and in his official capacity; ROXANNA §
RIOS, in her individual capacity and in her §
official capacity; OLGA RAMOS, in her §
individual and in her official capacity; and §
ROBERTO RUIZ, in his individual capacity §
and in his official capacity, §
§
§
§
Defendants, §

DEFENDANTS' JOINT NOTICE OF APPEAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Pursuant to Rule 3 of the Federal Rules of Appellate Procedure, DEFENDANTS RAMSEY ENGLISH CANTU, ROXANNA RIOS, OLGA RAMOS, and ROBERTO RUIZ, (“Defendants”) hereby give notice of their intent to appeal from the Order [Dkt. 42], signed by United States Chief District Court Justice Alia Moses on January 8, 2024, in the United States District Court for the Western District of Texas, Del Rio Division.

Defendants desire to jointly appeal the Order denying stay of discovery pending the Court’s ruling on Defendants’ assertions of qualified immunity and judicial immunity as stated in their Motion to Dismiss Plaintiff’s First Amended Complaint [Dkt. 40], to the United States Court of Appeals for the Fifth Circuit.

This appeal is made pursuant to the collateral order doctrine as recently articulated by the

Fifth Circuit Court of Appeals in *Carswell v. Camp*, 54 F.4th 307, 310 (5th Cir. 2022), *cert. denied*, 144 S. Ct. 73 (2023):

The collateral order doctrine permits immediate appeals of these orders because a defendant's entitlement to qualified immunity must be determined "at the earliest possible stage of the litigation." *Ramirez v. Guadarrama*, 3 F.4th 129, 133 (5th Cir. 2021) (per curiam). That's because qualified immunity is more than "a mere defense to liability." *Pearson v. Callahan*, 555 U.S. 223, 237, 129 S.Ct. 808, 172 L.Ed.2d 565 (2009) (quotation omitted). It's also "an immunity from suit." *Ibid.* (quotation omitted). And one of the most important benefits of the qualified immunity defense is "protection from pretrial discovery, which is costly, time-consuming, and intrusive." *Backe*, 691 F.3d at 648; *see also Helton v. Clements*, 787 F.2d 1016, 1017 (5th Cir. 1986) (per curiam) (a "refusal to rule on a claim of immunity" deprives a defendant of his "entitlement under immunity doctrine to be free from suit and the burden of avoidable pretrial matters").

We have jurisdiction over the scheduling order here because the district court refused to rule on qualified immunity "at the earliest possible stage of the litigation." *Ramirez*, 3 F.4th at 133. Defendants asserted qualified immunity in their motion to dismiss. That motion was the earliest possible opportunity for the district court to resolve the immunity question. It declined to do so.

Id. In the present case, Defendants each asserted their entitlement to qualified immunity in their Motion to Dismiss. However, the District Court declined to stay discovery until after addressing Defendants' assertion of qualified and judicial immunity.

The names of all parties to the Order appealed from, as well as the names, addresses, telephone numbers, and emails addresses of their respective attorneys, are as follows:

Defendants/Appellants

RAMSEY ENGLISH CANTU, sued in his individual capacity and in his official capacity; ROXANNA RIOS, sued in her individual capacity and in her official capacity; OLGA RAMOS, sued in her individual and in her official capacity; and ROBERTO RUIZ, sued in his individual capacity and in his official capacity.

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SIGNED this 10th day of January, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served in accordance with the Federal Rules of Civil Procedure and Federal Rules of Appellate Procedure on this 10th day of January, 2024, to the following:

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